

CWP-8422-2018
Reserved on: 18.04.2024
Pronounced on: 29.04.2024

Versus

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. P.P.Chahar, Sr. DAG, Haryana and
Mr. Saurabh Mago, DAG, Haryana.

2. The above espoused writ claims become founded upon the provisions of Section 24(2) of the Right to Fair Compensation and

2013 (for short 'the Act of 2013'), whereunders the petitioner becomes empowered to claim the making of a lapsing declaration.

3. The present petitioner would be entitled to the espoused writ relief(s), as relates to this Court, thus declaring rather lapsed the extantly drawn acquisition proceedings, but only when the provisions embodied in Section 24(2) of the 'Act of 2013', become proved to become breached by the respondents. However, for the reasons to be assigned hereinafter, the asked for relief qua the making of a lapsing declaration rather cannot be accorded by this Court.

4. Primarily for the reason, that the present petitioner would be entitled to coax this Court to declare the launching of the acquisition proceedings under the Act of 1894, to thus become lapsed, but only when the respondent-State, rather had completely failed to, in terms of the verdict rendered by the Constitutional Bench of the Hon'ble Apex Court in ***Indore Development Authority versus Manohar Lal and others, reported in (2020) 8 SCC 129***, adduce sufficient/clinching discharging evidence, in respect of the duo parameters, inasmuch as, (i) qua rapat possession being made over the acquired lands, (ii) and, qua the compensation, as became determined by the Collector concerned, becoming deposited for therebys its becoming available for being released to the land losers concerned, besides the said events evidently happening before the coming into force of the 'Act of 2013'.

5. To determine the above, it is necessary to refer to the reply on affidavit, already on record. A reading of the paragraph no. 5 of the said reply on affidavit, reveals, that possession over the acquired lands became assumed through rapat roznamcha No. 742 dated 07.08.2008,

and mutation has been sanctioned in favour of the beneficiary department.

6. Moreover, when it is further indicated in the reply, on affidavit, furnished to the writ petition, by the respondent concerned, that out of 19 kanal 2 marla land comprising in Khasra Nos. 31//16/1(8-0), 25/2 (2-6), 54//9/1/1(4-16) and 12/1(14-0) of village Machhgarh, the petitioner was owner of 3/382 share i.e. **3 marla land**. The petitioner was paid compensation respectively comprised in sums of Rs. 46,190/- vide cheque No. 534877 dated 19.03.2009 and Rs. 40,377/- vide cheque No. 491397 dated 22.03.2012. Further, the compensation was enhanced by the Hon'ble Court of Additional District and Sessions Judge concerned and the petitioner was paid enhanced compensation comprised in a sum of Rs. 34,723/- vide cheque No. 125229 dated 23.01.2014.

7. Further, it has been stated in the reply on affidavit, that the compensation amount was further enhanced and the petitioner was paid enhanced compensation amount of Rs. 1,70,168/- through RTGS on 08.06.2018 and he was also paid the interest amount of Rs. 4660/- vide RTGS dated 17.05.2018 for the gap period.

8. The effect of the above, is that, thereby the petitioner is deemed to accept the validity of the launching of the acquisition proceedings, and thereby he is rather estopped from challenging the validity of the launching of the acquisition proceedings.

9. Moreover, since both the above events took place prior to the coming into force of the 'Act of 2013', resultantly, in terms of the verdict recorded by the Hon'ble Apex Court in **Indore Development**

any espousal before this Court, that a lapsing declaration be made in terms of Section 24(2) of the 'Act of 2013'. In sequel, the above made writ claim is declined.

10. It has been pleaded in the petition that the petitioner is owner in possession of the subject lands in village Machhgarh, Tehsil Ballabhgarh, District Faridabad, on the basis of a registered sale deed No. 1794 dated 10.05.2007, in pursuance whereof, a mutation No. 3122 dated 23.06.2007 also became sanctioned. The petitioner further pleads that he has received compensation amounts (supra), only in respect of 3 marla land, whereas, he became owner of 20 marla land purchased from one Sunder Singh. Therefore, he has not received compensation for the remaining acquired 17 marla land, thus, he seeks a lapsing declaration in respect of the said 17 marla land.

11. However, for the reasons to be assigned hereinafter the above espoused relief cannot be accorded to the petitioner.

12. The primary reason for declining the said relief is grooved in the factum that the subject lands became sold to the petitioner by one Sunder Singh, thus after the issuance of notification under Section 4 of the 'Act of 1894'. The execution(s) besides registration(s) of the said deed of conveyance and further the sanctioning of mutation in pursuance thereof, thus are vitiated, and/or are non-est. The reason being that on launching of the acquisition proceedings, the vendor concerned became divested of any right, title or interest over the acquired lands, whereas, complete investment of right, title and interest over the acquired lands, rather became thus conferred, upon, the acquiring authority. Resultantly also the present petitioner has no *locus*

standi to maintain the instant writ petition, as he acquired no lawful title of the subject lands from his predecessor-in-interest.

13. Furthermore, a perusal of para No. 7 of the reply, on affidavit reveals that all the infrastructure works like roads, sewer, water supply scheme, storm water drainage, electrification, horticulture etc. have been developed for the public purpose at IMT, Faridabad around the land in question. The land in question forms part of area planned for development of GH-25, GH-26 and green belt in IMT, Faridabad. If so, the petitioner cannot raise any claim for this Court making any tinkering with the layout plans, as thereby this Court would be making ill tinkering with the said layout plans.

14. Moreover, the plea of the petitioner qua his still lawfully retaining possession over the subject lands, is a mis-founded plea, as, the occupation of the petitioner, over the subject lands rather is as trespassers thereovers and the petitioner is required to be lawfully evicted therefrom.

15. Conspicuously also since it has been stated, in the reply on affidavit, already on record, that the subject lands are an integral component of the layout plans, thereby when they are facilitating the relevant public purposes. Consequently, when public purpose than the individualistic interest is rather to be furthered. Resultantly, this Court finds no merit in the instant petition, and, is constrained to dismiss it.

Final Order of this Court.

16. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned notification(s), and consequent thereto award are maintained and

17. No order as to costs.
18. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

29.04.2024
kavneet singh

(LALIT BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

:

Yes/No
Yes/No